

1	Provision under which the application is filed	Sec.151 of CPC
2	Relief sought for	Modification of orders passed on IA No.4 and 5
3	The date on which the application filed	25.03.2025
4	Number of the application	IA No.VI
5	The date on which the objections are filed by different opponents	04.06.2025
6	The date on which the orders were passed on the said application	25.07.2025

ORDER ON IA No.VI

The plaintiffs have filed the present application Under Sec. 151 of CPC praying to modify the order dated 15.03.2025 passed by this Hon'ble Court on IA No.4 and 5 in the interest of justice and equality.

2. The plaintiffs have pleaded that they have filed this suit for relief of declaration and permanent injunction with respect to suit property. It is submitted that the Court was pleased to pass the interim order of injunction restraining the defendants from making any sort of construction over the suit property on IA No.1 dated 21.07.2023 the said order is not challenged by the defendants. Further, submitted that the Court without appreciating the application and accompanying application at IA No.4 and 5 was pleased to pass the order. That the IA No.4 is filed by the plaintiffs for police protection in executing the injunction order but, this Hon'ble Court was pleased to order for measurement of the properties which is not sought for in the application further application for measurement of property is already ordered on IA No.2 and said order was challenged before Hon'ble High Court of in WP No.105285/2023 and hence, the Court has no jurisdiction to pass any order for measurement that, too the plaintiffs application is of implementation for injunction order. Hence, order dated 15.03.2025 needs to be modified and police may kindly be directed to stop the illegal construction of the defendants over the suit property. Further submitted that the IA No.5 is

filed for demolition of illegal construction made by the defendant during injunction order. Further submitted that the this Court has not taken into consideration the judicial orders passed in OS No.121/1996 and so also in RA No.20/1999 dated 23.07.2005 wherein the Hon'ble Court was pleased to held that, plaintiffs are the absolute owners of the area measuring 320 Sq. yards. This being fact, the Court was pleased to consider the property extract of the defendants and held that, the defendants are the owners of an area measuring 320 Etc. Further, submitted that the order of the is totally with biased mind and without application of judicial mind on the documents produced by the plaintiffs. Hence, the order needs to be modified and hence, prays to allow the application.

3. On the other hand defendants have filed objection to present IA No.VI and contended that the application filed by plaintiffs is false, mischievous and not tenable in the eyes of law. It is contended that the IA No.1 is filed by plaintiff Under order XXXIX Rule 1 and 2 of CPC and the same is allowed and the defendants had filed IA No.2 for appointment of Court commissioner and said IA No.2 came to be allowed. The plaintiffs questioned the order passed on IA No.II before the

Hon'ble High Court of Karnataka in Writ petition No.105285/2023 and same is pending for consideration meanwhile the plaintiffs filed IA No.4 and 5 for police protection and direction to defendant to demolish the structure constructed upon the suit property by the defendants. The defendants filed their objections to the IAs and after hearing both the sides the Court was pleased to allow the IA No.4 and 5 and ordered that to directing the PSI Kittur to demarcate the boundaries of the suit property by measuring the same and also demarcate and ascertain the extent of encroachment by the defendants in the suit property VPC No.348 measuring 320 Sq. yards situated at Tigadolli village and to provide police help to the plaintiffs for enforcement of temporary injunction order till further orders and for sake of the orders the Kittur PS may take the assistance of the surveyor and file the report of police help and encroachment accordingly to the Court within next date of hearing i.e., by 25.03.2025. This being the facts, on record the plaintiffs have filed the present application for modifying the order dated 15.03.2025. Further contended that the present IA is not tenable in the eye of law the IA is premature unless the full fledged trial is conducted it is difficult to the come

to conclusion that the defendants have encroached upon the suit property and same require demolishing. Further contended that plaintiffs are causing aspirations on Hon'ble Court which has to be condemned by this Court the IA does not speak about the relief. The said IA is filed with oblique motive which cannot be allowed and same deserves to be dismissed with other contention prays to dismiss the application.

4. Hence, prays to reject the application.

5. Heard the Id. Counsels for the plaintiffs as well as the defendants. Perused the available materials on record. The following arise for consideration:

POINTS

1. Whether the plaintiffs have made out grounds to allow the IA No.VI?

2. What order?

6. My answer on the above points are as follows:

Point No.1 : In the negative

Point No.2 : As per final order for
the following:

REASONS

7. **Point No.1:-** The plaintiffs have filed the present suit seeking the relief of declaration to declare that the plaintiffs are the absolute owners in possession of suit property bearing VPC No.348 measuring 320 Sq. feet.

8. As submitted in this application this Court was pleased to grant interim relief of injunction in favour of plaintiffs against the defendants. The plaintiffs further filed the IA No.IV and V seeking the relief of police protection against the defendants and further to order the demolition of structure constructed by the defendants over the suit property. The defendants filed objections to said application denying the application averments and contended that defendants have not interfered with the possession of plaintiff over the suit property nor they have constructed any structure over the suit property. However, by discarding the objections filed by the defendants this Court once again was pleased to allow the application of plaintiffs and after granting police protection to the plaintiffs, this Court also directed the PSI Kittur PS to inspect the suit property and with assistance of surveyor to ascertain the extent of encroachment

by the defendants so that the relief of demolition can be considered.

9. However, the plaintiffs once again came with the present application making allegations on the Court itself that the Court has passed unfair orders without application judicial mind and this Court has become totally biased by considering that the defendants are the owners of 320 Sq. Yards.

10. However, on the perusal of entire orders on IA No.IV and V, this Court nowhere has mentioned that the defendants are the owners of land measuring 320 Sq. yards. On What basis the present application has been filed and on what basis the Court has been called as biased is not understood even after granting every relief sought by the plaintiffs. Further, in the present application what orders have to be modified is not specifically mentioned. Hence, without there being any specific relief the present application cannot be considered. The pleadings in present application are totally unnecessary and defamatory against this Court. Hence, the present application is liable to be dismissed. **Accordingly, I answer point No.1 in the negative.**

11. Point No.2:- With these observations,
I proceed to pass the following;

ORDER

The IA filed Under Sec.151 of CPC by
plaintiffs is hereby dismissed.

It is perused that there is stay by
Hon'ble High Court of Karnataka on
execution of orders on IA No.I. Hence,
except execution of said orders the Court has
to proceed in the present case and therefore,
matter is posted for framing of issues and
office is directed to issue intimation to PSI,
Kittur PS to file report.

Call on 06.08.2025.

25.07.2025

**Civil Judge and JMFC,
Kittur**